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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,531	02/12/2004	Shrjie Tzeng	0063-127001	4147
32294 7590 06/23/2009 SQUIRE, SANDERS & DEMPSEY L.L.P. 8000 TOWERS CRESCENT DRIVE 14TH FLOOR VIENNA, VA 22182-6212				
EXAMINER				
KRISHNAN, VIVEK V				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/776,531

Applicant(s)

TZENG, SHRJIE

Examiner

Vivek Krishnan

Art Unit

2445

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 April 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1.6-10 and 16-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1.6-10 and 16-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

This action is responsive to the Request for Continued Examination filed on April 10, 2009.

Claims 1 and 6-10 have been amended. Claims 2-5 and 11-15 have been cancelled. Claims 16-29 have been added. Claims 1, 6-10, and 16-29 are pending.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 10, 2009 has been entered.

Response to Arguments

2. Applicant's arguments with respect to Claim Rejections under 35 U.S.C. 102(b) and 35 U.S.C. 103(a) have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1, 6-10, and 16-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Independent Claims 1, 6, and 24 recite determining whether the frame is destined for a network device of the first trunk group or a second network device of the second trunk group and furthermore, forwarding the frame from the first network device to a network device of the first side to which the frame is destined if the frame is not destined for one of the network devices of the second trunk group. While Applicant's originally filed disclosure provides support for determining whether a frame is destined for a member of the Gigabit trunking group (or a second network device of the second trunk group), Applicant's disclosure *fails* to provide support for making the determination of whether the frame is destined for a network device of the first trunk group and furthermore forwarding the frame from the first network device to a network device of the first side to which the frame is destined if the frame is not destined for one of the network devices of the second trunk group. Applicant's disclosure merely states that the frame is forwarded "normally" if the frame is not destined for a member of the Gigabit trunking group, however this step does not provide support for the claimed limitations.

Claims 7-10, 16-23, and 25-29 fail to cure the deficiencies of Claims 1, 6, and 24.

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claim 1, 6-10, and 16-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Independent Claims 1, 6, and 24 recite receiving a frame at a first network device that is on a first side and a member of the first trunk group and determining whether the frame is destined for a network device of the first trunk group or a second network device of the second trunk group. This recitation is unclear and appears redundant since the frame has been received at a (first) network device of the first trunk group, hence the determination would always indicate that the frame is destined for a network device of the first trunk group.

Claims 7-10, 16-23, and 25-29 fail to cure the deficiencies of Claims 1, 6, and 24.

Claim Rejections - 35 USC § 101

7. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

8. Claims 1 and 16-23 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims are directed toward a method of handling frames in a network device. However, for a method to be statutory it must be tied to another statutory class (such as a particular apparatus) or transform underlying subject matter (such as an article or materials) to a different state or thing. Since the claims do not appear to do either of these the method is non-statutory.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 6-10, and 16-29 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0027908 A1 to Kalkunte et al. (hereinafter “Kalkunte”).

11. As to Claim 1, Kalkunte discloses a method of handling frames in a network device, said method comprising:

receiving a frame at a first network device of an assembly of network devices, divided into a first trunk group on a first side and a second trunk group on a second side, wherein the assembly includes a plurality of high-speed links connecting devices on the first side to corresponding devices on the second side, and wherein the first network device is on the first side and a member of the first trunk group (Kalkunte; paragraph 11, and Figure 1; receiving a frame at a network switch fabric, with a system of devices divided into a first side including the switch fabric and ingress network switches and a second side including the egress network switches and the destination devices that are accessible via trunked ports);

determining whether the frame is destined for a network device of the first trunk group or a second network device of the second trunk group trunk (Kalkunte; paragraph 11, and Figure 1; examining the received frame to determine whether the frame is belongs to a specific trunk group);

if the frame is destined for the second network device, forwarding the frame to the second side via a first high-speed link of the plurality of high-speed links connecting the first side to the second side, wherein the first high-speed link is local to the second network device (Kalkunte; paragraph 11, and Figure 1; forwarding the frame to a destination port that is local to the network device if the frame is destined for a member of the specific trunk group and the destination device identifier corresponds to a network device on the second side, of devices accessible via trunked ports); and

if the frame is not destined for one of the network devices of the second trunk group side, forwarding the frame from the first network device to a network device of the first side to which the frame is destined (Kalkunte; paragraph 11; if the frame does not correspond to a network device of the second side, i.e. accessible via trunked ports, an alternative destination port for the frame is determined and forwarded based on the egress port bit map).

12. As to Claim 16, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein the receiving comprises receiving the frame at the first network device, and wherein the plurality of links include a plurality of high speed links connecting a Gigabit port on a device of the first side to a Gigabit port on a device of the second side (Kalkunte; Figure 1; Gigabit port).

13. As to Claim 17, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein the determining comprises determining, based on a source chip identifier in a header of the frame, whether the frame is destined for a network device of the first trunk group or the second trunk group (Kalkunte; paragraph 12-13; destination address).

14. As to Claim 18, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein if the frame is destined for the second network device, the forwarding comprises, forwarding the frame to a second network device of the first side, wherein the second network device of the first side includes a port to the first high-speed link connecting the first side to the second side (Kalkunte; paragraph 11, and Figure 1).

15. As to Claim 19, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein if the frame is destined for the second network device, the forwarding comprises, determining that the first high-speed link is local to the first network device; and forwarding the frame from the first network device to the second network device via the first high-speed link (Kalkunte; paragraph 11, and Figure 1).

16. As to Claim 20, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein if the frame is not destined for a network device of the second side, the forwarding comprises, forwarding the frame to the network device of the first side to which the frame is destined via one or more expansion links connecting the first device to the network device of the first side to which the frame is destined (Kalkunte; paragraph 11, and Figure 1).

17. As to Claim 21, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein if the frame is destined for a second network device of the second trunk group, selecting a path from a plurality of paths by which to forward the frame from the first network device to the second network device, wherein the selected path is associated with the least amount of latency of the plurality of paths (Kalkunte; paragraph 11, and Figure 1).

18. As to Claim 22, Kalkunte discloses the method of claim 21. Kalkunte further discloses wherein the first high-speed link includes a higher throughput than the expansion links (Kalkunte; paragraph 11, and Figure 1).

19. As to Claim 23, Kalkunte discloses the method of claim 1. Kalkunte further discloses wherein receiving a frame at a first network device comprises, receiving the frame at the first network device that is a member of a third trunk group that includes the first trunk group and the second trunk group, and wherein the third trunk group is arranged to increase a utility of the network devices of the first trunk group and the second trunk group (Kalkunte; paragraph 11, and Figure 1).

20. Claims 6-10 and 24-29 have similar limitations to Claims 1 and 16-23. Therefore they are rejected under Kalkunte for the same reasons as set forth in the rejections of Claims 1 and 16-23.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivek Krishnan whose telephone number is (571) 270-5009. The examiner can normally be reached on Monday through Friday from 9:00 AM to 5:30 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on (571) 272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/V. K./
Examiner, Art Unit 2445

/VIVEK SRIVASTAVA/
Supervisory Patent Examiner, Art Unit 2445